IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ABINGDON DIVISION

| UNITED STATES OF AMERICA |) | |
|--------------------------|---|------------------------------|
| |) | Case No. 1:06CR00046 |
| v. |) | ORDER |
| RODNEY EDWARD STEWART, |) | By: James P. Jones |
| Defendant. |) | United States District Judge |

For reasons stated in the accompanying Opinion, it is **ORDERED** that:

- 1. Defendant's "MOTION PURSUANT TO Fed. R. Civ. P. 62.1 INDICATIVE RULING OR IN THE ALTERNATIVE Fed R. Civ. P. 60(b)(6) OR 60(d)(1)." (DE 193) is DENIED;
- 2. The Clerk is DIRECTED to redocket the defendant's pro se motion (DE 193) as a Motion to Vacate, Set Aside or Correct Sentence, pursuant to 28 U.S.C. § 2255;
- 3. The § 2255 motion is hereby DENIED without prejudice as successive and is stricken from the active docket of the court; and
- 4. A Certificate of Appealability is DENIED, based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right.

ENTER: July 15, 2013

/s/ James P. Jones
United States District Judge